COPY re 115

October 14, 1958

Ruth G. Morgan, Deputy Commissioner
Department of Labor
State House
Concord, New Hampshire

Dear Miss Morgan:

You recently forwarded to me a letter from Paul W. Chapman, Manager of Industrial Relations for Clarostat Manufacturing Co. Inc., dated October 1, 1958 addressed to the Commissioner of Labor. In this letter Mr. Chapman inquires as to whether the hours of labor for females or minors under the age of eighteen years, as set forth in RSA 275:15, apply to clerks, typists, stenographers and other office help in manufacturing establishments. You have requested our opinion on this question.

The portion of RSA 275:15 material to this inquiry is as follows:

> "275:15 Females; Minors. No female, or minor under eighteen years of age, shall be employed or permitted to work at manual or mechanical labor in any manufacturing establishment more than ten hours in any one day, or more than forty-eight hours in any one week . . . "

If this were a new question we might be inclined to the opinion that this statute is not applicable to employees such as those to whom Mr. Chapman's letter relates. The prohibition of the statute is against "manual or mechanical labor" and the type of work done by office help generally would probably not be considered as being within the commonly accepted and understood meaning of the phrase "manual or mechanical labor". However, as you know, under date of April 26, 1937 the then Attorney General Thomas P. Cheney ruled in response to an inquiry from the then Commissioner of Labor, John S. B. Davie, that female office help in general were subject to the hours of labor set by P.L. 176:14 as amended by Laws 1937, 36:1. That statute is now RSA 275:15, and the language of the then material portion of that statute was identical with the above quoted portion of RSA 275:15. It is further my understanding that ever

since Mr. Cheney's opinion the Commissioner of Labor has applied and interpreted this statute in accordance with such opinion. In view of this opinion and the long period of administrative interpretation of the statute in accordance therewith, and since we are further of the belief that this earlier opinion is not clearly wrong, we are not inclined to overrule the same at this time. It seems to us that the proper course at this time for anyone who feels that this interpretation is not in accordance with the legislative intent, is to resort to the legislature and seek clarification of this legislation.

I am enclosing herewith an extra copy of this opinion in the event that you desire to furnish Mr. Chapman with the same. I am returning to you herewith Mr. Chapman's letter together with your copy of Mr. Cheney's opinion and other correspondence.

Very truly yours,

John J. Zimmerman
Assistant Attorney General

Encs.
JJZ/m